

## REMARKS

The present application is directed to compositions and methods for attenuation of cancer in a mammal by administering to the mammal Group B  $\beta$ -hemolytic *Streptococci* toxin receptor or Group B  $\beta$ -hemolytic *Streptococci* toxin receptor peptide. Claims 1, 4, 5, 8-10, 15, 16, 31, 33-38, 40-42, 45, 46 and 59-92 are pending.

### *Election/Restrictions*

In the Election of Species Requirement set forth in the communication mailed November 1, 2007, the Examiner requires applicants to elect, for examination purposes, one of the following species recited in Claims 59-92:

- (a) amino acid residues 49-63 of SEQ ID NO:2;
- (b) amino acid residues 112-125 of SEQ ID NO:2;
- (c) amino acid residues 8-28 of SEQ ID NO:2;
- (d) amino acid residues 49-76 of SEQ ID NO:2;
- (e) amino acid residues 14-19 of SEQ ID NO:2;
- (f) amino acid residues 75-80 of SEQ ID NO:4;
- (g) amino acid residues 25-30 of SEQ ID NO:4;
- (h) amino acid residues 9-35 of SEQ ID NO:4;
- (i) amino acid residues 8-22 of SEQ ID NO:4; and
- (j) amino acid residues 71-84 of SEQ ID NO:4.

The Examiner asserts on pages 2-3 of the communication that the claims subject to restriction and/or election requirement are Claims 1, 4, 5, 8-10, 15, 16, 31, 33, 38, 40-42, 45, 46 and 59-92. The sequences identified by the Examiner in the Election of Species Requirement are recited in Claims 59-88, 91 and 92. The pending claims include generic claims, as discussed below. For the purpose specified in 37 C.F.R. §1.146, namely, "to elect a species of his or her invention to which his or her claims will be restricted if no claim to the genus is found to be allowable, applicants elect species c, amino acid residues 8-28 of SEQ ID NO:2. The claims reciting only the elected species are Claims 64 and 81. Claims 1, 4, 5, 8-10, 15, 16, 31, 33, 38, 40-42, 45, 46, 59-61, 72-

78 and 89-92 are generic and/or linking claims, encompassing, among other things, the claims reciting the elected species. See MPEP 806.04(d) and 809. Applicants bring to the Examiner's attention that the communication failed to identify the generic claims as required in MPEP 809.02(a). Applicants request examination and allowance of the generic and/or linking claims and consideration of the claims of the additional species identified by the Examiner upon the allowance of the generic claims.

On page 6 of the communication, the Examiner addresses *Changes to Practice for Continued Examination, Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications*, 72 Fed. Reg. 46719 (August 21, 2007), 1322 *Off. Gaz. Pat. Office* 76 (September 11, 2007). Applicants bring to the Examiner's attention that, as of November 29, 2007, the United States Patent and Trademark Office (USPTO) Web site states:

On October 31, 2007, the United States District Court for the Eastern District Court of Virginia issued a Preliminary Injunction enjoining the USPTO from implementing the changes in the Claims and Continuations Final Rule. Therefore, the changes to the rules of practice in the Claims and Continuations Final Rule, including the October 10 clarifications, did not go into effect on November 1, 2007.

USPTO employees are to continue processing and examining patent applications under the rules and procedures in effect on October 31, 2007, until further notice.

Accordingly, applicants request examination of the pending claims according to the rules and procedures in effect on October 31, 2007.

## **CONCLUSION**

The foregoing is submitted as a full and complete response to the communication mailed November 1, 2007. No additional fees are believed due, however, the Commissioner is hereby authorized to charge any deficiencies which may be required or credit any overpayment to Deposit Account Number 11-0855.

Applicants assert that the claims are in condition for allowance and respectfully request that the application be passed to issuance. If the Examiner believes that any informalities remain in the case that may be corrected by Examiner's amendment, or that there are any other issues which can be resolved by a telephone interview, a telephone call to the undersigned agent at (404) 815-6102 is respectfully solicited.

Respectfully submitted,

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